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Application *pro hac vice* to be filed

Attorneys for Plaintiff THOMAS LOZA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

THOMAS LOZA,

Plaintiff,

vs.

INTEL AMERICAS, INC.,

Defendant.

Case No.:

COMPLAINT

[JURY DEMANDED]

Plaintiff, THOMAS LOZA, by and through undersigned counsel hereby files his complaint against Defendant, INTEL AMERICAS, INC., and in support states as follows:

JURISDICTION AND VENUE

1. Jurisdiction over Plaintiff's federal law claims is founded upon 28 U.S.C. §§ 1331 and 1343, as this action involves federal questions regarding deprivation of all claims for and violation of Plaintiff's claims of his civil rights under the Age Discrimination in Employment Act

1 of 1967, 29 U.S.C. §§ 621 *et seq.* “ADEA” and the Employee Retirement Income Security Act of
 2 1974, 29 U.S.C. 18 § 1001 *et seq.* (hereinafter “ERISA”).

3 2. This is an action to redress Defendant’s unlawful employment practices against
 4 Plaintiff, including Defendant’s unlawful discrimination, harassment, and retaliation against
 5 Plaintiff because of his disability leading to his unlawful termination.

6 3. This is an action for violations of ERISA to redress Defendant’s unlawful act of
 7 terminating Plaintiff’s employment, which was done pretextually and with the purpose of interfering
 8 with a right to which Plaintiff would have become entitled under an employee benefit plan.

9 4. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) because a substantial
 10 part of the events or omissions giving rise to this action, including the unlawful employment
 11 practices alleged herein occurred in this district.

12 **INTRADISTRICT ASSIGNMENT**

13 5. This case arose in Santa Clara County, California and, pursuant to Rule 3-2(e) of the
 14 Local Rules of the Northern District of California, should be assigned to the San Jose Division of
 15 the Northern District.

16 **PARTIES**

17 6. Plaintiff is a Citizen of the United States and all times material was a citizen of the
 18 State of Texas, residing in Harris County, Texas.

19 7. Defendant Intel Americas, Inc, is a Foreign Stock Company registered in Delaware,
 20 with its principle place of business in Santa Clara, San Jose County, California.

21 8. Plaintiff worked as a Technical Sales Manager/Director, Enterprise Sales-Growth for
 22 Defendant remotely in Spring, Texas. Plaintiff reported to Caitlin Anderson (General Manager of
 23 Business Client Sales) who worked in the Corporate office located at 2200 Mission College Blvd.
 24 Santa Clara, California. Plaintiff managed the growth and initiatives team within CCG BU with
 25 emphasis on Unite sales and edge partner deal structures. He was responsible for setting and
 26 executing Defendant’s Unite sales strategy from direct to the edge. Plaintiff was also responsible
 27 for developing strategies for key sales initiatives/processes/partnerships across SMG to enable
 28 growth and trackability of Defendant’s commercial client business. Plaintiff’s was classified as an

1 exempt employee by receiving a base salary including bonuses based on performance regardless of
2 the number of hours worked.

3 9. Defendant is a covered employer under the ADEA and ERISA.

4 **PROCEDURAL REQUIREMENTS**

5 10. Plaintiff has complied with all statutory prerequisites to filing this action.

6 11. On or about February 18, 2020, Plaintiff dual-filed a claim with the California
7 Department of Fair Employment and Housing (“FEHA”) and the Equal Employment Opportunity
8 Commission (“EEOC”) satisfying the requirements of 42 U.S.C. § 2000e5(b) and (e), based on age.

9 12. On June 9, 2020, the EEOC issued a Notice of Rights to Sue.

10 13. A Tolling Agreement was entered by the Plaintiff and Defendant on September 4,
11 2020, wherein the Parties agreed to waive Plaintiff’s right to claim that this litigation should not be
12 dismissed due the expiration of the statute of limitations. The parties have a dispute regarding
13 Plaintiff’s termination of employment from Defendant as outlined in Plaintiff’s Demand Letter of
14 February 20, 2020 and the EEOC Charge of Discrimination. The parties agreed to preserve their
15 respective rights, claims, counterclaims, positions, and defenses while avoiding controversy at the
16 time and to defer legal action or litigation at the time of executing the Tolling Agreement. The Toll
17 Agreement is set to expire on September 25, 2020

18 14. This Complaint has been filed within the time of Tolling Agreement before it is set
19 to expire.

20 **FACTUAL ALLEGATIONS**

21 15. Plaintiff is a male who was over the age of forty-five (45) at all times material.

22 16. Plaintiff began working for Defendant in July 1997, in the capacity of multiple
23 positions for over twenty-two (22) years.

24 17. Throughout Plaintiff’s tenure with Defendant, Plaintiff was a hard-working
25 employee who diligently performed and excelled his duties on a regular basis.

26 18. Defendant terminated Plaintiff under pretext and without following its typical
27 progressive discipline process.

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1 b) Grant Plaintiff her costs and an award of reasonable attorneys' fees (including expert
2 fees); and

3 c) Award any other and further relief as this court deems just and proper.
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5 Dated: September 24, 2020

Respectfully submitted,

6 ELGUINDY, MEYER & KOEGEL, APC
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8 By: /s/ David M. Daniels

9 David M. Daniels, Esq.

10 Local Attorneys for Plaintiff THOMAS LOZA (pending
11 Application *pro hac vice* of Gary J. Martoccio)
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